

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Todd L. Ambs, Administrator
Water Division
Wisconsin Department of Natural Resources
101 S. Webster St.
Box 7921
Madison, Wisconsin 53707-7921

Dear Mr. Ambs:

I appreciate the time and effort the Wisconsin Department of Natural Resources has devoted to developing a comprehensive strategy for implementing new, more sensitive analytical methods for monitoring effluent mercury concentrations and for using these data in the issuance of National Pollutant Discharge Elimination System (NPDES) permits. In the process, Wisconsin has promulgated mercury regulations at Wis. Admin. Code NR 106.145, which affect previously approved Wisconsin authorities regarding water quality variances and NPDES permits but have not been submitted to the United States Environmental Protection Agency (EPA) for approval. EPA hereby requests that Wisconsin submit the provisions in its mercury regulations at Wis. Admin. Code NR 106.145 to EPA for review under Sections 303(c) and 402 of the Clean Water Act (CWA), 33 U.S.C. §§ 1313(c) and 1342.

EPA will review any revisions to water quality standards contained in Wis. Admin. Code NR 106.145 in accordance with CWA Section 303(c) and 40 CFR §§ 131.21 and 131.22. These authorities provide, among other things, that after a state submits its revisions, EPA shall either notify the state that the revisions have been approved within 60 days or notify the state of disapproval within 90 days. Any revisions to Wisconsin's approved NPDES program will be reviewed in accordance with 40 CFR § 123.62, which provides, among other things, that where EPA determines a revision to be substantial, EPA shall issue a public notice and provide an opportunity to comment for a period of at least 30 days, provide for the opportunity to request a public hearing, and hold such a hearing if there is significant public interest based on requests received.

Please submit Wis. Admin. Code NR 106.145 and any necessary supporting materials to me at the following address:

Jo Lynn Traub, Director
Water Division
Mail Code W-15J
U.S. EPA, Region 5
77 W. Jackson Blvd.
Chicago, IL 60604

Please note that NPDES program revisions are not effective for Clean Water Act purposes until approved by EPA. *See* 40 CFR § 123.62(b)(4). Similarly, subsequent to May 30, 2000, revisions to State water quality standards are not effective for Clean Water Act purposes until approved by EPA. *See* 40 CFR § 131.21(c)&(e). Thus, EPA will continue to review proposed variances from Wisconsin water quality standards, and WDNR's proposed NPDES permits, in accordance with applicable federal and approved state Clean Water Act requirements, including but not limited to the state rules and procedures that EPA approved in accordance with Section 118 of the Clean Water Act on November 6, 2000. *See* 65 Fed. Reg. 66511. For example, we may, where appropriate, object to permits that deviate from the approved requirements of Wis. Admin. Code NR 106.05.

We look forward to working with you to ensure that all aspects of Wisconsin's water quality standards and NPDES program are consistent with the requirements of the CWA. Please do not hesitate to contact me at (312) 353-2147, if you have any questions or comments.

Sincerely yours,

Jo Lynn Traub, Director
Water Division

bcc: David Carson, DOJ
Dawn Messier
Debra Clovis
Jennifer Wigal
Sara Hilbrich
Danielle Fuligni
Mark L. Morris
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